

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAMES NICOLAS FREEMAN,)	
)	
Petitioner,)	Civil Action No. 12-155
)	Judge Cathy Bissoon
v.)	Magistrate Judge Mitchell
)	
JOHN W. KERESTES, <i>et al.</i> ,)	
)	
Respondents.)	

ORDER

James Nicolas Freeman (“Petitioner”) is a state prisoner who had petitioned this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On May 9, 2012, this Court denied his petition, and further denied the issuance of a certificate of appealability. (Docs. 12 and 13). Petitioner timely filed a notice of appeal on June 4, 2012. (Doc. 14). Notwithstanding the pendency of his appeal, Petitioner filed a motion for a certificate of appealability with this Court on June 25, 2012. (Doc. 18).

Petitioner’s appeal has divested this Court of subject matter jurisdiction of this case. See Griggs v. Provident Consumer Discount, 459 U.S. 56, 58 (1982) (“[t]he filing of a notice of appeal is an event of jurisdictional significance – it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal”); Gleeson v. Prevoznik, 253 F. App’x 176, 179 (3d Cir. 2007) (“[t]imely filing of a notice of appeal conferred jurisdiction on this Court and divested the District Court of control of the case”). This Court takes judicial notice of the fact that a duplicate motion for certificate of appealability has been filed with the Court of Appeals for the Third Circuit, and currently is awaiting disposition. See Freeman v. Kerestes, No. 12-2608 (3d Cir. filed June 7, 2012). Accordingly, Petitioner’s motion will be denied for lack of jurisdiction.

AND NOW, this 17th day of September, 2012,

IT IS HEREBY ORDERED that Petitioner's motion for certificate of appealability (Doc. 18) is DENIED for lack of jurisdiction.

BY THE COURT:

s/Cathy Bissoon
CATHY BISSOON
UNITED STATES DISTRICT JUDGE

cc:
JAMES NICOLAS FREEMAN
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